

STATE OF TENNESSEE

PUBLIC CHAPTER NO. 468

SENATE BILL NO. 772

By Overbey, Black, Burks, Tracy, Ketron, Yager

Substituted for: House Bill No. 1385

By Harrison, Ferguson, Hawk, Ford, McCormick, McDaniel, Ramsey, Hill

AN ACT to amend Tennessee Code Annotated, Title 8, Chapter 42, Part 1 and Title 33, Chapter 6, Part 9, relative to the transportation of individuals with a mental illness who require involuntary commitment to a psychiatric hospital.

WHEREAS, the methods and quality of treatment in mental health have improved dramatically over the last half century; and

WHEREAS, the methods of transporting people to centers of care have remained the same; and

WHEREAS, county sheriffs' departments are the primary responsible agency for transporting patients to psychiatric hospitals as stipulated in Tennessee Code Annotated, Title 33; and

WHEREAS, transportation of patients by law enforcement criminalizes mental illness; and

WHEREAS, the current system of transportation by law enforcement places patients and families in situations that increase the likelihood of trauma; and

WHEREAS, the responsibilities placed upon the sheriffs' departments are burdensome and restrict their ability to perform primary public safety functions; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 33-6-901, is amended by adding the following new subdivision:

(d) It is the policy of the State of Tennessee that people with mental illness who are determined to be a danger to themselves and in need of physical restraint or vehicular security shall be transported by the sheriff or secondary transportation agents designated by the sheriff. People with a mental illness who do not present themselves as a danger to themselves or are not in need of physical restraint or vehicular security may be transported by one or more friends, neighbors, other mental health professionals familiar with the person, relatives of the person, or a member of the clergy, provided such persons are willing and able to provide such transport.

SECTION 2. Tennessee Code Annotated, Section 33-6-901(a), is amended by adding the following new subdivision:

(3) If a physician, psychologist or designated professional, operating under § 33-6-404(3)(B)(iii), determines that he or she has determined to a reasonable degree of professional certainty that the person subject to transportation under this part does not require physical restraint or vehicle security and does not pose a reasonable risk of danger to himself or herself or others, then the sheriff may permit one or more persons designated under this section, other than the sheriff or secondary transportation agent, to transport the person, provided that the person or persons provide proof of current automobile insurance. Before a person is transported, the sheriff or other transportation agent designated under Section 33-6-901(a)(1) or (2) shall give the notice required by § 33-6-406(b), along with the name or names of the person or persons who will actually transport the person subject to admission to a hospital or treatment resource. The person or persons designated to transport under this section must comply with the requirements of § 33-6-406(b)(2) and (3), § 33-6-407(c), and must provide the original of the certificate completed under § 33-6-404(3)(B)(ii) to the hospital or treatment resource.

SECTION 3. Tennessee Code Annotated, Section 8-42-101(3)(D), is amended by deleting the existing language and substituting the following:

(D) "State employee" also includes persons who are members of community-based screening processes or mandatory pre-screening agents that function under Title 33, Chapter 6, and who screen individuals to make judgments required by Title 33, Chapter 6. "State employee" further includes the Department of Mental Health and Developmental Disabilities "medical consultant"; this individual shall be a licensed physician who is designated by the Commissioner of Mental Health and Developmental Disabilities to provide medical consultation and advisory services to and on behalf of the commissioner and to the Department of Mental Health and Developmental Disabilities under Title 33. "State employee" further includes any physician, psychologist, or designated professional, while acting under § 33-6-404(3)(B)(iii), are engaged in assessing the need or absence of need for physical restraint or vehicle security during transportation to a hospital or treatment resource. The commissioner shall register only the names of properly qualified and designated persons with the board of claims. Persons designated under this item are not eligible for workers' compensation benefits from the State of Tennessee. For purposes of legal actions resulting from acts of omissions by these properly qualified and designated persons while performing duties referenced in this subdivision (3), the state shall be considered the employer of these persons.

SECTION 4. This act shall take effect July 1, 2009, the public welfare requiring it.

PASSED: June 3, 2009



RON RAMSEY
SPEAKER OF THE SENATE



KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 23rd day of June 2009



PHIL BREDESEN, GOVERNOR